NATIONAL TELECOMMUNICATIONS COOPERATIVE ASSOCIATION
The Voice of Rural Telecommunications
www.ntca.org

July 1, 2011

***Ex Parte* Notice**

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

***Connect America Fund,* WC Docket No. 10-90; *A National Broadband Plan for Our Future,* GN Docket No. 09-51; *Establishing Just and Reasonable Rates for Local Exchange Carriers,* WC Docket No. 07-135; *High-Cost Universal Service Support,* WC Docket No. 05-337; *Developing* a *Unified Intercarrier Compensation Regime,* CC Docket 01-92; *Federal-State Joint Board on Universal Service,* CC Docket No. 96-45; *Lifeline and Link-Up,* WC Docket No. 03-109**

Dear Ms. Dortch:

On Thursday, June 30, 2011, Shirley Bloomfield, Chief Executive Officer, and the undersigned from the National Telecommunications Cooperative Association ("NTCA") met with Margaret McCarthy, the wireline legal advisor to Commissioner Michael Copps, to discuss matters related to the above-referenced proceedings.

NTCA highlighted how certain reform proposals, such as the proposed elimination of any corporate operations expense recovery and modifications to high-cost loop reimbursements, would have the ironic and perverse effect of shifting essential universal service fund ("USF") support away from cornerstone small businesses that focus on operations in hard-to-serve areas and often represent some of the largest employers in their remote communities. Diverting much-needed cost recovery away from such committed network operators is contrary to the fundamental purpose of universal service, would undermine wealth creation and job retention in these outlying rural areas, and would put at risk the substantial investments that these companies have made in their small communities in reliance on existing rules. NTCA instead encouraged the Federal Communications Commission (the "Commission") to take measured steps to promote *and* sustain broadband availability and affordability in unserved areas. NTCA cautioned that such reform steps must not result in unsustainable broadband deployment and/or "backsliding" in the form of high-cost, rural areas that may be "served" today but would become unserved or underserved tomorrow once much-needed USF support were to evaporate. The statutory mandate for universal service includes not only making services available in unserved areas, but also ensuring every customer will *continue* to receive reasonably comparable services at reasonably comparable rates.

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Indeed, NTCA noted the mounting evidence on the record of this proceeding, in the form of numerous comments, *ex partes*, and other data filed by individual carriers, consultants, and associations, demonstrating that certain reform proposals would have a drastic adverse impact on the affordability and availability of basic and advanced services in some of the most high-cost areas in the United States. Examples of such filings include NTCA's comments and reply comments in the above-referenced proceedings (*see, e.g.*, Comments of NTCA, *et al*. (filed April 18, 2011), at Tables 1 through 8), as well as the dozens of filings made over the past several months providing detailed data on the impacts of changes under consideration in the Notice of Proposed Rulemaking ("NPRM") (*see, e.g., Ex Parte* filing of Warriner, Gesinger and Assoc. (filed June 24, 2011); *Ex Parte* filing of JSI and BEK Communications Cooperative (filed June 24, 2011); *Ex Parte* filing of Moss Adams and Canby Telephone (filed June 23, 2011); *Ex Parte* filing of NECA (filed May 25, 2011)). NTCA urged the Commission to examine this evidence carefully, and to ensure that it is taken fully into account in the final design and adoption of any reform initiatives.

To this end, NTCA noted that the USF and intercarrier compensation reform plan (the "RLEC Plan") that it had previously submitted in cooperation with national, regional, and state rural telecom associations in these proceedings (*see, e.g., Ex Parte* filing of NTCA (filed May 26, 2011)) strikes an appropriate and responsible balance in reform. NTCA explained that the RLEC Plan would serve the goal of promoting sustainable broadband in high-cost areas in at least two respects. First, the RLEC Plan contains several measures to control growth in the size of the USF, thereby helping to ensure a sensible balance between the use of USF resources to support deployment in unserved areas and to sustain the provision of affordable, high-quality broadband in high-cost, hard-to-serve rural areas. Second, the RLEC Plan would enable rural local exchange carriers to continue the responsible "edging out" of broadband in rural areas in a manner (and with support) comparable to that of recent years.

NTCA further discussed its opposition to the potential imposition of any artificial cap or limit on high-cost USF support. Although the NPRM appropriately sought comments on how the Commission might control the growth of the USF as part of any reform transition (*see, e.g.*, NPRM, at ¶¶ 157, 241), the imposition of an overall cap would be arbitrary and capricious, unsupported by any meaningful evidence, and most significantly, contrary to the congressional mandate in Section 254 of the Communications Act, as amended, that universal service be "specific, predictable and sufficient." Specifically, it would be impossible to ensure either "sufficient" or "predictable" support by imposing an overall cap that bears no relevance or relation to the "job" to be done: the preservation and advancement of supported services throughout the United States. A cap will necessarily result in either "unfunded mandates" or unprincipled limitations on the availability and affordability of service in high-cost areas – neither of which comports with the statutory directive for universal service. For purposes of clarification, this is not to say that the Commission cannot (or should not) take steps to ensure that USF support is efficiently and effectively utilized in furtherance of the statutory objectives; indeed, the RLEC Plan contains a number of measures to help in this regard. But particularly given the fact that any pressures placed on the size of the USF have <u>*not*</u> arisen from the high-cost support received by incumbent local exchange carriers (*see, e.g., Ex Parte* filing of NTCA (filed Dec. 20, 2010), at Slides 4 through 6), the Commission should not seek to address such pressures through the imposition of an artificial cap on high-cost funding.

Pursuant to Section 1.1206 of the Commission's rules, a copy of this letter is being filed via ECFS with your office. If you have any questions, please do not hesitate to contact me at (703) 351-2016 or mromano@ntca.org.

Sincerely,

/s/ Michael R. Romano
Michael R. Romano

Senior Vice President - Policy

cc: Margaret McCarthy